

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

V.

JESSE WILLIAM MCGRAW

Defendant.

§
§
§
§
§
§
§
§

CRIMINAL ACTION NO.

3:09-CR-210-B (01)

PRETRIAL ORDER

Motions due	August 12, 2009
Responses due	August 26, 2009
Proposed voir dire and jury instructions due	September 4, 2009
Pretrial Conference set	September 11, 2009 at 2:00pm
Jury selection and trial set	September 14, 2009

1. This case is **set for trial** on **September 14, 2009, at 9:00 a.m.**. Counsel and the parties shall be ready for trial on that date. Any potential scheduling conflicts must be called to the attention of the Court **in writing** within ten (10) days of the date of this order.

2. By **August 5, 2009**, the government shall provide **full discovery** to the defendant in accordance with **Rule 16(a)**, FED. R. CRIM. P. By **August 5, 2009**, the defendant shall provide full discovery to the government in accordance with **Rule 16(b)**, FED. R. CRIM. P.

3. By **August 5, 2009**, the government shall, in accordance with *Brady v. Maryland*, 373 U.S. 83 (1963), provide the defendant with all of the **exculpatory evidence** it possesses concerning the defendant.

4. The government shall provide the defendant with all **Jencks Act material** (18 U.S.C. § 3500) on the day prior to the testimony of the witness to whom such material relates.

5. By **August 12, 2009**, all **pretrial motions** shall be filed, and they must comply with **Local Rule 47.1**. Discovery motions and motions for a bill of particulars will be denied in their entirety unless they are limited to the specific matters actually in dispute, **after conference with opposing counsel**, as required by Local Rules 5.1(a) and (c).

6. By **August 26, 2009**, the **government's response**, to the pretrial motions shall be filed, and **any reply** by the defendant shall be filed by **September 1, 2009**.

7. By **September 4, 2009**, all **pretrial materials** shall be filed. Specifically, by this date:

a. **A list of witnesses** shall be filed by each party – which divides the persons listed into groups of “**probable witnesses**,” “**possible witnesses**,” “**experts**” and “**record custodians**,” which states the **name and address** of each witness; and which contains a brief **narrative summary** of the testimony to be covered by each witness. (Modification of Local Rule 8.1(b)).

b. **A list of exhibits** to be offered at trial shall be filed by each party. In addition, each party shall **number the listed exhibits** with gummed labels (which the parties must provide themselves); shall **exchange a complete set** of marked exhibits with opposing counsel; and shall **deliver a set of marked exhibits to the Court's chambers** (except large or voluminous items that cannot be easily reproduced). (Modification of Local Rule 8.1(b)).

c. Additional copies of the **list of witnesses** and **list of exhibits** (as required by Local Rule 8.1(b)) shall be **delivered** by each party, **on the day the case is set for trial**, to the **court reporter**.

d. **Requested jury instructions (annotated)**,¹ any motions

¹ “Annotated” means that **each** proposed instruction shall be accompanied by citation to statutory or case authority and/or pattern instructions. It is not sufficient to submit a proposed instruction without citation to supporting authority. Because Fifth Circuit and Supreme Court cases are the only

in limine (which must be limited to matters actually in dispute), and any **proposed voir dire questions** which the Court is requested to ask during its examination of the jury panel shall be filed by each party. (Modification of Local Rule 8.2(c) and (d)).

e. **A written statement** covering these matters shall be filed by each party: (i) the estimated **length of trial**; (ii) the status of any **plea bargaining** negotiations; (iii) any **scheduling problems** which the attorneys, parties or witnesses have during the trial docket; and (iv) **any additional matters** which would aid the disposition of this case.

f. **Trial briefs, if any**, shall be filed. In the absence of a specific order, trial briefs are not required but are welcomed. They should concentrate on Fifth Circuit and Supreme Court authority on the issues the parties anticipate will arise at trial.

NOTE: Deadlines set in this order are dates for **filing** or **delivery** of pretrial materials, **not mailing** dates.

8. A **final pretrial conference** in this case is set for **September 11, 2009 at 2:00 p.m.** All pretrial motions not previously decided will be resolved at that time, and procedures for trial will be discussed. The defendant shall be present.

9. **SANCTIONS will be imposed if these pretrial requirements are not met.** If the **government** does not timely file the pretrial materials, the case will be dismissed. Any **defendant** who does not timely file the required pretrial materials will not be permitted to present witnesses or exhibits at trial. **Failure to list a witness or an exhibit** shall be grounds for exclusion of that testimony or exhibit. This does not apply to exhibits or testimony offered for **impeachment**; and the use of unlisted exhibits or witnesses for **rebuttal** shall be permitted if the attorneys could not have

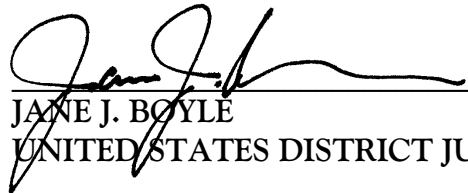
precedent binding on this court, the parties should – to the extent possible – rely on these sources (and/or Fifth Circuit pattern instructions) in proposing jury instructions.

reasonably anticipated their need for that evidence.

10. Questions about this pretrial order or the case should be directed to **Peggy Munroe** (214/753-2740).

SO ORDERED.

SIGNED August 3rd, 2009



JANE J. BOYLE
UNITED STATES DISTRICT JUDGE